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Barbee B. Lyon,
Pro Se, and also as Attorney for Plaintiff Joan Kruse

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

BARBEE B. LYON AND JOAN KRUSE,

Civil No.C-07-CV-1779-AS

Plaintiffs,

v.

**PLAINTIFF'S MOTION FOR
LEAVE TO FILE AMENDED
COMPLAINT**

JPMORGAN CHASE & CO.,

Defendant.

Pursuant to Federal Rule of Civil Procedure 15(a), plaintiffs Barbee B. Lyon and Joan Kruse ("Plaintiffs") move for leave of the Court to file an Amended Complaint, a copy of which is attached to this motion as Exhibit A.

Shortly before the deadline for filing amended pleadings, plaintiffs sent a copy to opposing counsel. He responded that he could not tell me whether he would oppose the filing of the amended complaint until he checked with his client. I never heard back from him, and it slipped out of my awareness.

Several weeks later I contacted another attorney in the office of opposing counsel. This time I was told that defendant would oppose the filing of the Amended Complaint. I later confirmed this with opposing counsel.

There is no prejudice to defendant in the filing of the Amended Complaint. It has no new factual allegations, and the damages sought in the Amended Complaint are also the same as those sought in the original Complaint. Plaintiffs' Amended Complaint simply adds two additional legal theories applicable to those same facts: 1) Negligent infliction of emotional distress; and 2) breach of contractual covenant of good faith and fair dealing. There is also some minor correcting of errors.

DATED this 27th day of October, 2008.

TONKON TORP LLP

By /s/ _____
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Barbee B. Lyon,
Pro Se, and also as Attorney for Plaintiffs
Joan Kruse

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing PLAINTIFFS' MOTION

TO AMEND COMPLAINT on:

Mr. Michael J. Farrell
Martin, Bischoff, Templeton, Langslet & Hoffman
900 Pioneer Tower
888 SW Fifth Avenue
Portland, OR 97204

Attorneys for JPMorgan Chase & Co.

☐ by mailing a copy thereof in a sealed, first-class postage prepaid envelope, addressed to each attorney's last-known address and depositing in the U.S. mail at Portland, Oregon on the date set forth below;

☐ by causing a copy thereof to be hand-delivered to said attorneys at each attorney's last-known office address on the date set forth below;

☐ by sending a copy thereof via overnight courier in a sealed, prepaid envelope, addressed to each attorney's last-known address on the date set forth below; or

☐ by faxing a copy thereof to each attorney at his last-known facsimile number on the date set forth below.

DATED: _____, 2008.

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MOTION FOR LEAVE TO FILE AMENDED COMPLAINT.DOC